IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPEAL NO. 709 OF 1989

Shri C.C.Nagpure,Asstt.Collector
of Customs, M & P. .. Appellant

versus

Chandulal Manilal Shah & ors. .. Respondents

...

None for the appellant.

Mr.Kafil Khan i/b Girish Kulkarni for the respondent nos.1 and 2.

Mr.A.M. Shringarpue, APP for the State.

CORAM : V.M. KANADE, J

DATED : 16th September 2004.

ORAL JUDGEMENT :-

1. Heard the learned counsel appearing on behalf of the State and the learned counsel on behalf of the respondents.

2. The State has filed this appeal challenging the order passed by the Chief Metropolitan Magistrate,

32nd Court, Esplanade, Bombay. The accused was charged u/s.85(1)(i)(ix) r/w sec.85(1)(a) of the Gold (Control) Act 1968 r/w sec.8 r/w sec.6 and 27(1) of the said Act r/w sec.109 of the IPC. The trial Court accepted the defence of the accused that the said gold was acquitted by the accused from his late father who had concealed the same in his house. He therefore, claimed exemption u/s.16 of the Gold Control Act. The trial Court accepted the said defence and acquitted the accused.

3. It has come on record that adjudication proceedings were taken out against the accused and a fine of Rs.25,000/- imposed which fine has been paid by him. Apart from that, the said gold was confiscated and the order of confiscation is upheld in the adjudication proceedings. The reasoning of the trial Court is not perverse. The view taken by the trial Court is a possible view. I have gone through the R & P. I do no feel that this is a fit case in which this Court should interfere while exercising its jurisdiction u/s.378 of the Code of Criminal procedure.

4. Appeal is therefore, dismissed.

V.M. KANADE,J